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4 UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
5 AT TACOMA

6 JOSEPH GLEN BLUE,

7 Petitioner,

8 v.

9 JAMES KEY,

10 Respondent.

Case No. 2:21-cv-00172-RAJ-TLF

ORDER DENYING MOTION TO  
APPOINT COUNSEL

11 The District Court has referred this action filed under 28 U.S.C. § 2254 to United  
12 States Magistrate Judge Theresa L. Fricke. Currently pending in this action is Petitioner  
13 Joseph Glen Blue's requests for appointed counsel. Dkt. 9 at 110; Dkt. 10.

14 There is no right appointed counsel in cases brought under 28 U.S.C. § 2254  
15 unless an evidentiary hearing is required or such appointment is necessary for the  
16 effective utilization of discovery procedures. *See McCleskey v. Zant*, 499 U.S. 467, 495  
17 (1991); *United States v. Duarte-Higareda*, 68 F.3d 369, 370 (9th Cir. 1995); *United*  
18 *States v. Angelone*, 894 F.2d 1129, 1130 (9th Cir. 1990); *Weygandt v. Look*, 718 F.2d  
19 952, 954 (9th Cir. 1983); Rules Governing Section 2254 Cases in the United States  
20 District Courts 6(a) and 8(c). The Court may appoint counsel "at any stage of the case if  
21 the interest of justice so require." *Weygandt*, 718 F.2d at 954. In deciding whether to  
22 appoint counsel, the Court "must evaluate the likelihood of success on the merits as  
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1 well as the ability of the petitioner to articulate his claims *pro se* in light of the complexity  
2 of the legal issues involved.” *Id.*

3 At this time, the Court has ordered the Clerk to serve the Petition; however, an  
4 answer has not been filed. Therefore, the Court does not find good cause for granting  
5 leave to conduct discovery and has not determined an evidentiary hearing will be  
6 required. See Rules Governing Section 2254 Cases in the United States District Courts  
7 6(a) and 8(c). Furthermore, Petitioner effectively articulated his grounds for relief raised  
8 in the Petition, the grounds are not factually or legally complex, and it is difficult to  
9 determine the likelihood of success on the merits without an answer and the state court  
10 record. See Dkt. 5, 12. Thus, Petitioner has not shown the interests of justice require  
11 the Court to appoint counsel at this stage in the case.

12 As Petitioner has not shown appointment of counsel is appropriate at this time,  
13 the Motion for Counsel (Dkt. 10) is denied without prejudice.

14 Dated this 4th day of May, 2021.

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17 Theresa L. Fricke  
18 United States Magistrate Judge  
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